

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANA VILLALONGO,
Petitioner,

vs.

FDC-PHILADELPHIA,
Respondent.

)
)
)
)
)
)

C.A. No. 06-164 Erie
District Judge McLaughlin
Magistrate Judge Baxter

MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION

I. RECOMMENDATION

_____ It is respectfully recommended that the instant petition for writ of habeas corpus be transferred to the Eastern District of Pennsylvania.

II. REPORT

_____ This is a petition for writ of habeas corpus, pursuant to 28 U.S.C. § 2254, filed by a federal prisoner presently incarcerated at the Federal Detention Center at Philadelphia in the Eastern District of Pennsylvania.

In his petition, Petitioner Ana Villalongo claims that she is entitled to receive 54 days of good time credit for each year of her imprisonment pursuant to 18 U.S.C. § 3624(b). Petitioner is currently serving a sentence of 54 months of imprisonment for Conspiracy to Possess with Intent to Distribute. Her projected release date is March 10, 2008.

As a general proposition “matters concerning the conditions of confinement or the execution of a sentence are within the subject matter jurisdiction of the court presiding in the district in which a prisoner is incarcerated.” DeSimone v. Lacy, 805 F.2d 321, 323 (8th Cir. 1986) citing Lee v. United States, 501 F.2d 494, 500 (8th Cir. 1974).

In the case at bar, although Petitioner was tried and convicted of her offense in this

district, she is not challenging the imposition of her sentence but, rather, the manner in which her sentence is being executed. As a result, the court having subject matter jurisdiction over this matter is the court presiding in the district in which Petitioner is incarcerated. In this case, that court would be the United States District Court for the Eastern District of Pennsylvania.

III. CONCLUSION

It is respectfully recommended that the petition for writ of habeas corpus be transferred to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. § 2241.

In accordance with the Magistrate Act, 28 U.S.C. § 636 (b)(1) (B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrates, the parties are allowed ten days from the date of service to file written objections to this Report and Recommendation. Any party opposing the objections shall have seven days from the date of service of objections to respond thereto. Failure to file timely objections may constitute a waiver of any appellate rights.

S/Susan Paradise Baxter
SUSAN PARADISE BAXTER
Chief U.S. Magistrate Judge

Dated: August 7, 2006

cc: The Honorable Sean J. McLaughlin
United States District Judge